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# Draft Bill of

# An Act to revise the Pension Benefits Act

Ministry of Consumer and Commercial Relations





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## Draft Bill of

### An Act to revise the Pension Benefits Act

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

## Definitions

**1. In this Act,**

“additional voluntary contribution” means a contribution to the pension fund by a member of the pension plan beyond any amount that the member is required to contribute, but



does not include a contribution in relation to which the employer is required to make a concurrent additional contribution to the pension fund;

“administrator” means the person or persons that administer the pension plan;

“assets of the employer”, in relation to an employer, means assets that in the ordinary course of business would be entered in books of account, whether or not a particular asset is entered in the books of account of the employer;

“bridging benefit” means a periodic payment provided under a pension plan to a member of the pension plan on retirement for a temporary period of time for the purpose of supplementing the member’s pension benefit until the member is eligible to receive benefits under the *Old Age Security Act* (Canada) and retirement benefits under the *Canada Pension Plan* or the *Quebec Pension Plan*;

R.S.C. 1970,  
cc. O-6, C-5

R.S.Q. 1977,  
c. R-9

“certified copy” means a copy certified to be a true copy;

“Commission” means the Pension Commission of Ontario;

“commuted value” means the value as of a fixed date of a pension, a pension benefit or an ancillary benefit;

“continuous”, in relation to employment, membership or service, means without regard to periods of temporary suspension of the employment, membership or service and without regard to periods of lay-off from employment;

“contributory pension benefit” means a pension benefit or part of a pension benefit to which a member is required to make contributions under the terms of the pension plan;

“deferred pension” means a pension benefit, payment of which is deferred until the person entitled to the pension benefit reaches the normal retirement date under the pension plan;

“defined benefit” means a pension benefit other than a defined contribution benefit;

“defined contribution benefit” means a pension benefit determined with reference to and provided by contributions, and the interest on the contributions, paid by or for the credit of a member and determined on an individual account basis;

“designated province” means a province or territory of Canada that is prescribed by the regulations as a province or territory in which there is in force legislation substantially similar to this Act;

“employee” means a natural person who is employed by an employer;

“employer” means employer of a member of a pension plan;

“filed” means filed with the Superintendent;

“former member” means a person who,

(a) has ceased to be employed by the employer or employers or has ceased to be a member, and

(b) is in receipt of a pension payable from the pension fund or is entitled to a deferred pension payable from the pension fund;

“Guarantee Fund” means the Pension Benefits Guarantee Fund continued by this Act;

R.S.O. 1980, c. 218, “insurance” has the same meaning as in the *Insurance Act*;

“insurance company” means a corporation authorized to undertake life insurance in Canada;

“joint and survivor pension benefit” means a pension benefit payable for life to the person entitled to the pension benefit and thereafter for life to the survivor of the person and the person’s spouse;

“member” means a member of the pension plan;

“Minister” means the member of the Executive Council designated by the Lieutenant Governor in Council;

“multi-employer pension plan” means a pension plan established and maintained for employees of two or more employers who contribute to a pension fund by reason of agreement, statute or municipal by-law to provide a pension benefit that is determined by service with one or more of the employers, but does not include a pension plan where all the employers are affiliates within the meaning of the *Business Corporations Act, 1982*;

“normal retirement date” means the date or age specified in the pension plan as the normal retirement date of members;

“partial wind up” means the termination of part of a pension plan and the distribution of the assets of the pension fund related to that part of the pension plan;

“participating employer” means an employer required to make contributions to the multi-employer pension plan;

“pension” means a pension benefit that is in payment;

“pension benefit” means the aggregate monthly, annual or other periodic amounts payable to a member or former member during the member’s lifetime, to which the member will become entitled under the pension plan upon attainment of normal retirement date;

“pension committee” means a committee that is the administrator of a pension plan;

“pension fund” means the fund maintained to provide benefits under or related to the pension plan;

“pension plan” means a plan to provide pensions for members under which the employer or employers are obligated to pay contributions, but does not include,

- (a) an employees’ profit sharing plan or a deferred profit sharing plan as defined in sections 144 and 147 of the *Income Tax Act* (Canada),
- (b) a plan to provide a retiring allowance as defined in subsection 248 (1) of the *Income Tax Act* (Canada), or
- (c) any other type of plan prescribed by the regulations;

R.S.C. 1952,  
c. 148

“prescribed” means prescribed by the regulations;

“qualification date” means, in respect of Ontario, the 1st day of January, 1965, and, in respect of a designated province, the date on which under the law of the designated province a pension plan must be registered by the proper authority in the designated province;

“reciprocal transfer agreement” means an agreement related to two or more pension plans or pension funds that pro-



vides for the transfer of moneys or credits for employment or both related to persons who cease membership in one of the pension plans and commence membership in another of the pension plans;

“regulations” means regulations made under this Act;

“spouse” means either of a man and woman who,

- (a) are married to each other,
- (b) have together entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right under this Act,
- (c) are not married to each other and have lived together in a conjugal relationship continuously for a period of not less than one year, or
- (d) are not married to each other and have lived together in a conjugal relationship of some permanence, if they are the natural or adoptive parents of a child;

“Superintendent” means Superintendent of Pensions;

“surplus” means the excess of the value of the assets of a pension fund related to a pension plan over the value of the liabilities under the pension plan, both calculated in the prescribed manner;

“wind up” means the termination of a pension plan and the distribution of the assets of the pension fund;

R.S.C. 1970,  
c. C-5

“Year’s Maximum Pensionable Earnings” has the same meaning as in the *Canada Pension Plan*.

## APPLICATION

Crown bound

**2.** This Act binds the Crown.

Employees  
in Ontario

**3.** This Act applies to every pension plan that is provided for persons employed in Ontario.

Place of  
employment

**4.—(1)** For the purposes of this Act, a person shall be deemed to be employed in the province in which the establishment of his or her employer is located and to which the person is required to report for work.



(2) A person who is not required to report for work at an establishment of his or her employer shall be deemed to be employed in the province in which is located the establishment of his or her employer from which the person's remuneration is paid. Idem

## REGISTRATION AND ADMINISTRATION

**5.—**(1) Every pension plan must be administered by an administrator. Adminis-  
trator

(2) The administrator of a pension plan must be one of the following: Requirements

1. The employer or employers.
2. A pension committee composed of one or more representatives of the employer or employers and one or more representatives of members of the pension plan.
3. A pension committee composed of representatives of members of the pension plan.
4. The insurance company that provides the pension benefits under the pension plan, if all the pension benefits under the pension plan are fully insured.

(3) If the pension plan is a multi-employer pension plan established pursuant to a collective agreement, the administrator must be a board of trustees of whom at least one-half must be representatives of members of the multi-employer pension plan. Idem,  
multi-  
employer  
pension plan

**6.—**(1) No person shall administer a pension plan unless a certificate of registration or an acknowledgement of application for registration of the pension plan has been issued by the Superintendent. Prohibition  
of adminis-  
tration of  
unregistered  
pension plan

(2) Subsection (1) does not apply to prevent administration during the first ninety days after the establishment of the pension plan. Application  
of subs. (1)

(3) No person shall administer a pension plan if registration of the pension plan has been refused or revoked by the Superintendent. Refusal or  
revocation

(4) Subsection (3) does not apply to prevent administration for the purpose of wind up of a pension plan. Exception

Application  
for  
registration

**7.—**(1) Within sixty days after the date that a pension plan is established, the administrator shall apply for registration of the pension plan.

Requirements  
for  
registration

(2) An application for registration shall be made by,

(a) filing,

(i) a completed application in the form that shall be supplied by the Superintendent,

(ii) certified copies of the documents that create and support the pension plan,

(iii) certified copies of the documents that create and support the pension fund,

(iv) any other prescribed documents; and

(b) paying the prescribed fee to the Commission.

Contents of  
pension plan

**8.** A pension plan shall set out the following information:

1. The method of appointment and the details of appointment of the administrator of the pension plan.
2. The conditions for membership in the pension plan.
3. The benefits and rights that are to accrue upon termination of employment, termination of membership and retirement under the pension plan.
4. The contributions or the method of calculating the contributions required by the pension plan.
5. The method of determining benefits payable under the pension plan.
6. If the pension plan is a multi-employer pension plan, the powers and duties of the board of trustees.
7. The mechanism for payment of the cost of administration of the pension plan and pension fund.
8. The mechanism for establishing and maintaining the pension fund.

9. The treatment of surplus during the continuation of the pension plan and on the wind up of the pension plan.
10. Any other prescribed information related to the pension plan or pension fund or both.

**9.—(1)** A pension plan is not eligible for registration unless it provides for the accrual of pension benefits in a gradual and uniform manner.

Gradual and uniform accrual of pension benefits

(2) A pension plan is not eligible for registration if the formula for computation of the employer's contributions to the pension fund or the pension benefit provided under the pension plan is variable at the discretion of the employer.

Variable contributions or pension benefits

(3) A deferred profit-sharing pension plan is not eligible for registration if the formula governing allocation of contributions to the pension fund and profits among members of the plan is variable at the discretion of the employer.

Variable deferred profit-sharing

(4) Despite subsections (1), (2) and (3), the Superintendent may register a pension plan if the Superintendent is of the opinion that registration is justified in the circumstances of the pension plan and the members.

Exception

**10.** A pension committee or a board of trustees that is the administrator of a pension plan may include representatives of persons receiving pensions under the pension plan.

Representation of pensioners

**11.** An administrator of a pension plan who enters into a reciprocal transfer agreement shall file a certified copy of the agreement.

Reciprocal transfer agreement

**12.—(1)** The Superintendent shall issue an acknowledgment of application for registration of a pension plan in respect of which an application in accordance with this Act is filed.

Issuance of acknowledgment of application

(2) The Superintendent shall issue a certificate of registration for each pension plan registered under this Act.

Issuance of certificate of registration

**13.** The administrator of a pension plan shall file each year an annual return of information in respect of the pension plan in a form that shall be supplied by the Superintendent and shall pay the prescribed fee.

Administrator's annual information return

**14.—(1)** If a pension plan is amended, the administrator of the pension plan shall apply for registration of the amendment.

Amendment of pension plan



Application (2) An application for registration of an amendment shall be made within sixty days of the making of the amendment by filing a certified copy of the amending document and any other documents or information prescribed by the regulations.

Notice of registration (3) The Superintendent shall issue a notice of registration of each amendment registered under this Act.

When amendment becomes effective (4) No amendment to a pension plan is effective until submitted to the Superintendent for registration.

Reduction of benefits (5) An amendment to a pension plan is void if the amendment purports to reduce,

- (a) a pension benefit or the value of a pension benefit under the pension plan with respect to employment before the date on which the amendment is made;
- (b) a pension or a deferred pension under the pension plan; or
- (c) an ancillary benefit that a member or former member of the pension plan is receiving or for which the member has satisfied all eligibility conditions.

Refusal or revocation of registration

**15.—**(1) The Superintendent may,

- (a) refuse to register a pension plan;
- (b) refuse to register an amendment to a pension plan;
- (c) revoke the registration of a pension plan,

for failure to comply with the requirements of this Act or the regulations.

Application of subs. (1)

(2) The authority of the Superintendent under subsection (1) is subject to the right to a hearing under section 83.

Effective date

(3) A refusal or a revocation by the Superintendent is effective on the date specified by the Superintendent.

Termination

(4) The pension plan or the amendment, as the case may be, is terminated on the effective date specified by the Superintendent.

Conflict of interest

**16.—**(1) An administrator or, if the administrator is a committee, a member of the committee that is the administrator of a pension plan shall not knowingly permit his or her

interest to conflict with his or her duties and powers in respect of the pension plan and pension fund.

(2) An administrator or, if the administrator is a committee, a member of the committee that is the administrator of the pension plan is not entitled to any benefit from the pension plan other than pension benefits and fees that are permitted by common law or are provided for in the pension plan.

Personal  
benefits

(3) An employee or agent of an administrator is also subject to the standard that applies to the administrator under subsection (1).

Employee  
or agent

(4) An agent of an administrator is not entitled to any payment from the pension plan other than the normal fees for the service provided by the agent.

Agent's fees

**17.—**(1) The administrator of a pension plan shall exercise the care, diligence and skill in the administration of the pension plan and pension fund that a person of ordinary prudence would exercise in dealing with the property of another person.

Care,  
diligence  
and skill

(2) An administrator or, if the administrator is a committee, a member of the committee that is the administrator of a pension plan shall use in the administration of the pension plan and pension fund all relevant knowledge and skill that the administrator or member possesses or, by reason of his or her profession, business or calling, ought to possess.

Special  
knowledge  
and skill

(3) An employee or agent of an administrator is also subject to the standards that apply to the administrator under subsections (1) and (2).

Employee  
or agent

**18.** An employer shall provide to the administrator of the pension plan any information required by the administrator for the purpose of complying with the terms of the pension plan or of this Act or the regulations.

Information  
from  
employer

**19.** The requirements of this Act and the regulations shall not be construed to prevent the registration or administration of a pension plan and related pension fund that provide pension benefits or ancillary benefits more advantageous to members than those required by this Act and the regulations.

Greater  
pension  
benefits

**20.—**(1) The Superintendent shall not refuse to register a pension plan or revoke the registration of a pension plan for the reason only that a provision of the pension plan required by a collective agreement or an arbitration award made under the *Labour Relations Act* is contrary to or does not comply with this Act and the regulations.

Collective  
agreement or  
arbitration  
award

R.S.O. 1980,  
c. 228

- Application of subs. (1) (2) Subsection (1) applies only in respect of a collective agreement or arbitration award that is in effect on the date this section comes into force.
- Idem (3) Subsection (1) does not apply after the date on which the collective agreement or arbitration award expires or after the date that is two years after the date this section comes into force, whichever occurs first.
- Advisory committee **21.**—(1) The members of a pension plan by a majority vote may appoint an advisory committee.
- Application of subs. (1) (2) Subsection (1) does not apply if the pension plan is administered by a pension committee or by a board of trustees.
- Purposes (3) The purposes of an advisory committee are,
- (a) to monitor the administration of the pension plan and pension fund;
  - (b) to make recommendations to the administrator respecting the administration of the pension plan and pension fund; and
  - (c) to promote awareness and understanding of the pension plan on the part of members of the pension plan and persons receiving pension benefits under the pension plan.
- Examination of records (4) The advisory committee or its representative has the right to examine the records of the administrator in respect of the administration of the pension plan and pension fund and to make extracts from and copies of the records, but this subsection does not apply in respect of information as to the service, salary, pension benefits or other personal information related to any specific person without the person's prior consent.

## DISCLOSURE OF INFORMATION

- Information from administrator **22.**—(1) The administrator of a pension plan shall provide in writing to each person who will be eligible or is required to become a member of the pension plan,
- (a) an explanation of the provisions of the plan that apply to the person;
  - (b) an explanation of the person's rights and obligations in respect of the pension plan; and



(c) any other information prescribed by the regulations.

(2) The administrator shall provide the information to the person, Time

(a) at least thirty days before the date the person will be eligible to become a member of the pension plan; or

(b) within thirty days after the date the person becomes eligible to become a member of the pension plan, if the person is eligible to become a member upon employment.

**23.**—(1) An administrator of a pension plan who proposes to apply for registration of an amendment to the pension plan shall give notice of the proposal, together with a written explanation of the amendment, to each member of the pension plan and to each person who will be eligible or is required to become a member of the pension plan. Notice of proposed amendment

(2) On request, the administrator shall give a person mentioned in subsection (1) a copy of the amendment. Copies

(3) After registration, the administrator shall give notice of the registration to each person mentioned in subsection (1). Notice of registration

(4) With the approval of the Superintendent, the administrator may dispense with the notices mentioned in subsections (1) and (3). Dispensing with notices

(5) The Superintendent may give approval if the Superintendent is of the opinion that dispensing with the notices is justified in the circumstances. Approval

**24.** Where a member of a pension plan terminates employment with his or her employer or ceases to be a member of the pension plan, the administrator of the pension plan shall give the member a written statement of the member's benefits and any other prescribed information in respect of the member's entitlements. Statement of pension benefits

**25.**—(1) The administrator shall give annually to each member of the pension plan a written statement containing the prescribed information in respect of the member's pension benefits and other benefits. Annual statement of pension benefits

(2) The administrator shall give to each person other than a member entitled to a pension or other benefits from the pen- Statement to other person

sion plan a written statement containing prescribed information in respect of the pension or other benefits.

Inspection of  
adminis-  
trator's  
documents

**26.**—(1) On request, the administrator of a pension plan shall make available for inspection by a member or a former member of the pension plan, or by an agent authorized in writing by the member or former member, the documents and information prescribed in respect of the pension plan for the purposes of this section.

Copies

(2) The administrator shall permit the member or former member or agent to make extracts from or to copy the prescribed documents and information.

Idem

(3) On request, the administrator shall provide the member, former member or agent with copies of any of the documents or information on payment of a reasonable fee.

## MEMBERSHIP

Eligibility  
for  
membership

**27.**—(1) Every employee of a class of employees for whom a pension plan is established is eligible to be a member of the pension plan.

Full-time  
employment

(2) A pension plan may require not more than twenty-four months of full-time continuous employment with the employer as a condition precedent to membership in the pension plan.

Part-time  
employment

(3) A pension plan may require not more than twenty-four months of less than full-time continuous employment with the employer with earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings in each of two consecutive calendar years as a condition precedent to membership in the pension plan.

Multi-  
employer  
pension plan

(4) A multi-employer pension plan may require not more than twenty-four months of employment by one or more of the participating employers with earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings in each of two consecutive calendar years, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the multi-employer pension plan.

Approval

(5) The Superintendent may give the approval mentioned in subsection (4) if the Superintendent is of the opinion that the basis is equivalent in the circumstances to the earnings mentioned in that subsection.

Loss of  
membership

**28.** A member of a pension plan who is employed continuously on a less than full-time basis does not cease to be a

member by reason only that he or she has earnings of less than 35 per cent of the Year's Maximum Pensionable Earnings in a calendar year.

**29.** A person who is eligible and meets the requirements for membership in a pension plan has the right to become a member at any time if the person continues to be an employee.

Continuing  
eligibility

**30.**—(1) Where there is a dispute as to whether or not an employee is a member of a class of employees for whom a pension plan is established or maintained, the Superintendent, subject to section 83, by order may require the administrator to accept the employee as a member.

Dispute as  
to member  
of class of  
employees

(2) The Superintendent may make the order if the Superintendent is of the opinion that, on the basis of the terms of employment of the employee, the employee is a member of the class.

Ground  
for order

**31.** An employer may establish or maintain a separate pension plan for employees employed on a less than full-time basis if the separate pension plan provides pension benefits and other benefits reasonably equivalent to those provided under the pension plan maintained by the employer for employees employed on a full-time basis.

Separate  
pension plan

## BENEFITS

**32.**—(1) A pension plan may provide the following ancillary benefits:

Ancillary  
benefits

1. Disability benefits.
2. Death benefits in excess of those provided in section 46 (pre-retirement death benefit).
3. Survivor benefits in excess of those provided by section 42 (joint and survivor pension benefits).
4. Bridging benefits.
5. Early retirement options and benefits in excess of those provided by section 41 (early retirement option).
6. Postponed retirement options and benefits.
7. Any prescribed ancillary benefit.



- Use in calculating pension benefit (2) An ancillary benefit for which a person has not met all eligibility requirements shall not be included in calculating the person's pension benefit, unless the pension plan provides that it is to be included.
- Purchase of pension, etc. **33.**—(1) The administrator of a pension plan required to provide a pension, deferred pension or ancillary benefit under the pension plan may purchase the pension, deferred pension or ancillary benefit from an insurance company.
- Limitation (2) The authority under subsection (1) to purchase a pension, deferred pension or ancillary benefit is subject to the prescribed limitations.
- Approval by Superintendent (3) If a purchase under subsection (1) will or is likely to result in the pension fund failing to meet the prescribed solvency standard, the administrator shall not make the purchase without the prior approval of the Superintendent, and the Superintendent may make such terms and conditions to the approval as the Superintendent considers appropriate in the circumstances.
- Variation of payment to disabled person **34.** A pension plan may permit variation in the terms of payment of a pension or deferred pension by reason of the mental or physical disability of a member or former member that is likely to shorten considerably the life expectancy of the member or former member.
- Commutated value **35.**—(1) A pension plan may provide for payment of the commuted value of a benefit if the benefit is not more than 2 per cent of the Year's Maximum Pensionable Earnings.
- Idem (2) A pension plan may provide that upon termination of employment a person entitled to a deferred pension is entitled to payment of an amount not greater than 25 per cent of the commuted value of the portion of the deferred pension related to employment before the 1st day of January, 1987.

## RETIREMENT AND VESTING

- Normal retirement date **36.**—(1) Every pension plan shall specify the normal retirement date under the pension plan.
- Idem (2) The normal retirement date under a pension plan registered on or after the 31st day of December, 1986 shall not be later than six months after the attainment of sixty-five years of age.
- Transitional (3) Every pension plan registered before the 1st day of January, 1987 shall be deemed to specify a normal retirement

date in respect of all pension benefits that accrue after the 31st day of December, 1986 that is the attainment of sixty-five years of age, unless the pension plan specifies a normal retirement date that is the attainment of an age of less than sixty-five years.

(4) A member of a pension plan who continues to be employed by the employer after the normal retirement date may continue membership in the pension plan and accrue pension benefits in accordance with the benefit and contribution formula under the pension plan to not more than the maximum under the formula until termination of employment. Continuation

**37.**—(1) A member of a pension plan who meets the qualifications in subsection (2) is entitled to the benefit mentioned in subsection (3). Deferred pension benefit for past service

(2) The qualifications are, Qualifications

- (a) that the member must have been employed by the employer, or have been a member of the pension plan, for a continuous period of at least ten years;
- (b) that the member must have reached the age of forty-five years; and
- (c) that the member must have terminated his or her employment before reaching the normal retirement date under the pension plan.

(3) The benefit is a deferred pension equal to the pension benefit provided under the pension plan in respect of employment before the 1st day of January, 1987 in Ontario or in a designated province, Amount

- (a) under the terms of the pension plan, with respect to employment on or after the qualification date;
- (b) by an amendment to the pension plan made on or after the qualification date; and
- (c) by the creation of a new pension plan on or after the qualification date.

(4) Subsections (1) to (3) do not apply in respect of benefits that result from additional voluntary contributions. Application of subss. (1-3)

(5) If the value of the deferred pension is less than the value of the member's contributions to the pension plan and the interest credited in respect of the contributions, the de- Adjustment

ferred pension shall be increased so that its value is equal to the value of the contributions and interest.

Deferred  
pension  
benefit

**38.**—(1) A member of a pension plan who meets the qualifications in subsection (2) is entitled to the benefit mentioned in subsection (3).

Qualifications

(2) The qualifications are,

- (a) that the member must be a member after the 31st day of December, 1986;
- (b) that the member must be a member for a continuous period of at least twenty-four months; and
- (c) that the member must have terminated his or her employment before reaching the normal retirement date under the pension plan.

Amount

(3) The benefit is a deferred pension equal to,

- (a) the pension benefit provided under the pension plan in respect of employment in Ontario or in a designated province after the 31st day of December, 1986 or on or after the qualification date if the qualification date is later than the 1st day of January, 1987; and
- (b) the pension benefit that results from any amendment to the pension plan after the 31st day of December, 1986, whether or not the amendment applies in respect of employment before the 1st day of January, 1987.

Application  
of  
subss. (1-3)

(4) Subsections (1) to (3) do not apply in respect of benefits that result from additional voluntary contributions.

Termination  
by member

**39.**—(1) A member of a multi-employer pension plan is entitled to terminate his or her membership in the pension plan if no contributions are made or are required to be made to the pension plan by or on behalf of the member for twenty-four consecutive months or for such shorter period of time as is specified in the pension plan.

Effect of  
termination

(2) For the purpose of determining entitlement to a deferred pension, a person who terminates his or her membership in a multi-employer pension plan shall be deemed to have terminated his or her employment.



**40.**—(1) A member of a pension plan entitled to a deferred pension is entitled to require the administrator to pay the commuted value of the deferred pension, Transfer

- (a) to the pension fund related to another pension plan, if the administrator of the other pension plan agrees to accept the payment;
- (b) into a prescribed retirement savings arrangement; or
- (c) for the purchase for the member of a deferred life annuity under which payments will not commence more than ten years before the normal retirement date under the pension plan.

(2) Subsection (1) does not apply to a member whose employment is terminated and who is entitled to immediate payment of a pension benefit, unless the pension plan provides such an entitlement. Exception

(3) A member may exercise his or her entitlement under subsection (1) by delivering to the administrator a direction in the prescribed form signed by the member. Direction

(4) The administrator shall not make payment under clause (1) (b) or (c) except upon receipt of evidence that the payment will be administered as a deferred pension in accordance with prescribed conditions. Terms of arrangement or deferred annuity

(5) If a payment under subsection (1) will or is likely to result in the pension fund failing to meet the prescribed solvency standard, the administrator shall not make the payment without the approval of the Superintendent. Approval

(6) The Superintendent may approve the payment subject to such terms and conditions as the Superintendent considers appropriate in the circumstances. Terms and conditions

(7) If a payment that will or is likely to result in the pension fund failing to meet the prescribed solvency standard is made without the approval of the Superintendent or there is failure to comply with a term or condition attached to the approval, the Superintendent by order may require the repayment to the pension fund of an amount not in excess of the amount of the payment. Order for repayment

**41.**—(1) A former member who is entitled to a deferred pension under this Act and who is within ten years of attain- Early retirement option

ing the normal retirement date under the pension plan is entitled to elect to receive an early retirement pension benefit.

Idem

(2) A member who is within ten years of attaining the normal retirement date under the pension plan is entitled upon termination of employment to elect to receive an early retirement pension benefit.

Amount

(3) An early retirement pension benefit must be not less than the actuarial equivalent of the member's pension benefit or the former member's deferred pension under the pension plan.

Payment

(4) The member or former member is entitled to require the commencement of payment of the early retirement pension benefit at any time within the ten year period mentioned in subsection (1) or (2).

Application  
of  
subss. (1-4)

(5) Subsections (1) to (4) apply only in respect of former members whose employment terminated after the 31st day of December, 1986.

### JOINT AND SURVIVOR PENSION BENEFITS

Joint and  
survivor  
pension  
benefits

**42.—**(1) Every pension paid under a pension plan to a former member of the pension plan who has a spouse at the date that the first payment of the pension is due shall be a joint and survivor pension benefit.

Actuarial  
value

(2) The actuarial value of a joint and survivor pension benefit shall not be less than the actuarial value of the pension benefit that would be payable under the pension plan to the former member if he or she did not have a spouse.

Amount of  
survivor  
benefit

(3) The amount of the pension payable to the survivor shall not be less than 60 per cent of the pension paid to the former member during the joint lives of the former member and his or her spouse.

Application  
of  
subss. (1-3)

(4) Subsections (1) to (3) do not apply in respect of a pension benefit if payment of the pension benefit has commenced before the 1st day of January, 1987.

Designated  
beneficiary

**43.** A member of a pension plan may designate a person who shall be deemed to be the member's spouse for the purpose of the member's joint and survivor pension if the member does not have a spouse at the date of commencement of payment of the member's pension under the pension plan.

**44.**—(1) The persons entitled to a joint and survivor pension benefit under a pension plan may waive the joint and survivor entitlement by a written direction delivered to the administrator of the pension plan.

Waiver of joint and survivor pension benefit

(2) The direction is not effective unless it is delivered to the administrator within the period of twelve months immediately preceding the commencement of payment of the pension benefit.

Direction

(3) The persons entitled to the pension benefit may revoke the waiver by a written notice delivered to the administrator of the pension plan before the commencement of payment of the pension benefit.

Revocation

**45.**—(1) The spouse of a deceased former member of a pension plan who is receiving a pension under the pension plan is not disentitled to payment of the pension by reason only of remarriage after the death of the former member.

Remarriage of spouse

(2) Subsection (1) applies in respect of pensions that are being paid or that commence to be paid before or after the 31st day of December, 1986.

Application of subs. (1)

**46.**—(1) If a person entitled under a pension plan to a deferred pension benefit described in section 38 (deferred pension benefit) dies before commencement of payment of the deferred pension, the person's spouse at the date of death is entitled to receive payment of the commuted value of the deferred pension.

Pre-retirement death benefit

(2) If the person dies while employed by the employer, entitlement to a deferred pension and the commuted value of the deferred pension shall be calculated as if the person's employment were terminated immediately before the person's death.

Idem

(3) A person who is a member of a pension plan may designate a person who shall be deemed to be the person's spouse for the purpose of the entitlement under subsection (1) if the person does not have a spouse immediately before the member's death.

Designated beneficiary

(4) If the person does not have a spouse and has not designated a beneficiary under subsection (3), the person's estate is entitled to receive payment of the commuted value.

Estate entitlement

(5) Subsections (1) to (4) apply only in respect of pension benefits accrued after the 31st day of December, 1986.

Application of subs. (1-4)



Valuation  
on marriage  
breakdown  
1986, c. 4

**47.**—(1) If the value of a person's pension or pension benefit must be determined for the purpose of determining the person's net family property under the *Family Law Act, 1986*, the value shall be determined in accordance with the prescribed valuation principles as if the person's employment were terminated on the valuation date that applies in respect of the person under that Act.

Agreement  
or order

(2) Payment of a pension may be divided between spouses in accordance with an order under Part I of the *Family Law Act, 1986* or a separation agreement as defined in the *Family Law Act, 1986*, and the administrator shall pay the pension in accordance with the order or separation agreement.

Limitation

(3) An agreement or an order mentioned in subsection (2) is not effective to reduce a member's or former member's pension to less than one-half of the amount of the pension.

Effective  
date of  
payment

(4) An agreement or order referred to in subsection (2) is not effective to require payment of a pension benefit earlier than the date payment of the pension commences or the normal retirement date under the pension plan, whichever comes first.

Discrimi-  
nation  
on basis of  
sex

**48.**—(1) The sex of a member, former member or other beneficiary under a pension plan shall not be taken into account in,

- (a) determining the amount of contributions required to be made by a member of the plan;
- (b) the pension benefits to which a member, former member or other beneficiary is or may become entitled to;
- (c) the provision of eligibility conditions for membership; and
- (d) the provision of ancillary benefits.

Adminis-  
tration

(2) In order to comply with subsection (1), the administrator may,

- (a) use annuity factors that do not differentiate as to sex;
- (b) provide for employer contributions that vary according to the sex of the employee; or

- (c) use any prescribed method of calculation or valuation.

(3) This section applies to contributions, benefits and conditions with respect to employment after the 31st day of December, 1986. Application

**49.**—(1) The reduction of a pension or a deferred pension that may be required by a pension plan in relation to payment under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada) shall not exceed the sum of, Integrated pension plan

- (a) the amount calculated according to the following formula: R.S.C. 1970, c. C-5  
R.S.Q. 1977, c. R-9  
R.S.C. 1970, c. O-6

$$A \times \frac{B}{35}$$

where: A = amount of the pension payable to the person under the *Canada Pension Plan* or the *Quebec Pension Plan* calculated as of the date of termination of the person's employment or membership, R.S.C. 1970, c. C-5  
R.S.Q. 1977, c. R-9

B = number of years, not exceeding 35, including parts of a year, of employment credited to the person under the pension plan after the 31st day of December, 1965; and

- (b) the amount calculated according to the following formula:

$$C \times \frac{D}{35}$$

where: C = amount of the pension payable under the *Old Age Security Act* (Canada) calculated as of the date of termination of the person's employment or membership, R.S.C. 1970, c. O-6

D = number of years, not exceeding 35, including parts of a year, of employment credited to the person under the pension plan before the 1st day of January, 1987.

- Idem (2) The reduction referred to in subsection (1) shall be applied prior to any other adjustments required under the pension plan.
- Further reduction (3) The amount of a reduction in a pension or deferred pension required under a pension plan in relation to the payments mentioned in subsection (1) shall not be increased by reason of an increase in the amount of any of the other payments after the date of the member's termination of employment or death.
- Reduction re *Old Age Security Act* (Canada)  
R.S.C. 1970, c. O-6 (4) A pension plan for registration of which application is made after the 31st day of December, 1986 shall not permit the reduction of a pension or a deferred pension based on a person's entitlement under the *Old Age Security Act* (Canada).

## CONTRIBUTIONS

- Funding **50.**—(1) A pension plan is not eligible for registration unless it provides for funding sufficient to provide the pension benefits and other benefits under the pension plan in accordance with this Act and the regulations.
- Payments (2) An employer required to make contributions to a pension fund shall make payments in accordance with the prescribed requirements for funding and in the prescribed manner.
- Idem (3) Where the pension benefits provided under the pension plan are fully insured, the employer shall make the required payments to the insurance company.
- Notice to Superintendent **51.**—(1) The administrator of a pension plan shall give written notice to the Superintendent of all contributions that are not paid when due.
- Liability of administrator (2) An administrator who fails to give the written notice within sixty days after the contributions become due is jointly liable with the employer for payment of the amount of the contributions with interest.

## TRUST

- Trust property **52.**—(1) Where an employer receives money from an employee under an arrangement that the employer will pay the money into a pension plan or pension fund as the employee's contribution to the plan or fund, the employer shall be deemed to hold the money in trust for the employee until the employer pays the money into the plan or fund.

(2) For the purposes of subsection (1), money withheld by an employer, whether by payroll deduction or otherwise, from moneys payable to an employee shall be deemed to be money received by the employer from the employee.

Money withheld

(3) An employer who is required to make contributions to a pension plan or pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to the employer contributions due and not paid into the pension plan or pension fund.

Accrued contributions

(4) Where a pension plan is wound up in whole or in part, an employer who is required to make contributions to a pension plan or pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to employer contributions accrued to the date of the wind up but not yet due under the plan or regulations.

Wind up

(5) The administrator of the pension plan has a lien and charge on the assets of the employer in an amount equal to the amounts deemed to be held in trust under subsections (1), (3) and (4).

Lien and charge

(6) Subsections (1), (3) and (4) apply whether or not the moneys have been kept separate and apart from other money or property of the employer.

Application of subss. (1,3,4)

**53.**—(1) The administrator of a multi-employer pension plan shall require all participating employers to file with the administrator a written statement setting out the obligations of the participating employer in relation to the pension plan.

Statement of obligations

(2) A participating employer shall comply with the requirement of the administrator under subsection (1).

Compliance

**54.** The administrator of a multi-employer pension plan may require a person who receives contributions to the pension fund or who administers or invests the pension fund to be bonded in an amount required by the administrator or in the prescribed amount.

Bond

**55.** Money that an employer is required to pay into a pension fund accrues on a daily basis.

Accrual

**56.** The administrator may commence proceedings in a court of competent jurisdiction to obtain payment of contributions due under the pension plan, this Act and the regulations.

Collection of contributions



Application  
of contri-  
butions and  
interest

**57.**—(1) Contributions made under a pension plan by the employer or employers and the interest on the contributions shall be applied to offset not less than one-half of the commuted value of each member's pension benefit or deferred pension in respect of the member's contributory pension benefit.

Refund of  
member's  
contributions  
and interest

(2) On termination of a member's employment and membership, the member is entitled to payment from the pension fund of an amount equal to the amount by which the member's contributions and the interest thereon exceed one-half of the commuted value of the member's pension or deferred pension referred to in subsection (1).

Application  
of subss.  
(1,2)

(3) Subsections (1) and (2) do not apply in respect of a defined contribution benefit or a benefit from additional voluntary contributions.

Idem

(4) Subsections (1) and (2) apply only in respect of,

- (a) contributions and pension benefits related to employment after the 31st day of December, 1986; and
- (b) pension benefits and ancillary benefits that result from an amendment to the pension plan after the 31st day of December, 1986, whether or not the amendment applies in respect of employment before the 1st day of January, 1987.

Interest

**58.** Interest on contributions shall be calculated and credited at the prescribed rates and in accordance with prescribed requirements.

## LOCKING IN

Refunds

**59.**—(1) No person is entitled to a refund from the pension fund of contributions made in respect of employment in Ontario or a designated province on or after the qualification date.

Idem

(2) Subsection (1) does not prevent the refund of an additional voluntary contribution and interest thereon by a member or former member.

Refund  
related  
to past  
employment

(3) Despite subsection (1), a member whose employment is terminated and who is not entitled to a pension or to a deferred pension under section 37 (deferred pension benefit for past service) is entitled to payment of an amount equal to the amount of the member's contributions, and the interest on the

contributions, made under the pension plan in respect of the member's employment before the 1st day of January, 1987.

(4) Despite subsection (1), a member whose employment is terminated and who is not entitled to a pension or to a deferred pension under section 38 (deferred pension benefit) is entitled to payment of an amount equal to the amount of the member's contributions, and the interest on the contributions, made under the pension plan in respect of the member's employment after the 31st day of December, 1986.

Refund  
related  
to post-  
reform  
employment

(5) For the purposes of subsections (3) and (4), termination of membership in a multi-employer pension plan shall be deemed to be termination of employment.

Multi-  
employer  
pension plan

(6) Subsection (1) does not apply to prevent commutation of a pension benefit under section 35 or a refund under subsection 57 (2).

Commutation  
or refund

**60.**—(1) Every transaction that purports to assign, charge, anticipate or give as security money payable under a pension plan is void.

Void  
transactions

(2) Every transaction that purports to assign, charge, anticipate or give as security money transferred from a pension fund in accordance with section 40 (transfer) is void.

Idem

(3) Subsections (1) and (2) do not apply to prevent the assignment of an interest in a pension or other life annuity resulting from a transfer under section 40 by an order under the *Family Law Act, 1986* or by a separation agreement as defined in Part IV of that Act.

Exemption  
for order or  
separation  
agreement  
1986, c. 4

(4) Money payable under a pension plan is exempt from execution, seizure or attachment.

Exemption  
from  
execution,  
seizure or  
attachment

(5) Money paid out of a pension fund to a retirement savings arrangement or for the purchase of a deferred life annuity under section 40 (transfer) is exempt from execution, seizure or attachment.

Idem

(6) Despite subsection (4), where a person is receiving a pension or payments resulting from a transfer under section 40, the payments are subject to execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario to a maximum of one-half the money payable.

Order for  
support or  
maintenance

Application  
of subs. (6)

(7) Subsection (6) applies to orders for support or maintenance enforceable in Ontario whether made before or after the coming into force of this Act.

Commutation  
or surrender

**61.**—(1) A transaction that purports to commute or surrender a pension or pension benefit or payments resulting from a transfer in accordance with section 40 during the life of the person entitled to the pension or pension benefit is void.

Exception

(2) Subsection (1) does not apply to a variation in benefits under section 34 or to a commutation in accordance with section 35.

Payment of  
surplus  
money

**62.**—(1) No money that is surplus may be paid out of a pension fund to the employer without the prior consent of the Commission.

Consent of  
Commission

(2) The Commission shall consent to the payment of surplus money out of a pension fund if,

- (a) the pension plan provides for the payment and meets the requirements and qualifications prescribed in respect of payment of surplus;
- (b) the applicant has met the requirements and qualifications prescribed in respect of payment of surplus; and
- (c) notice of the application for consent has been given by the administrator to members, former members and other persons entitled to payment from the pension fund.

Wind up

(3) Subsections (1) and (2) do not apply to prevent the payment of surplus money out of a pension fund in accordance with this Act, the regulations and a wind up report approved by the Superintendent on the wind up in whole or in part of a pension plan.

Investment  
of pension  
fund

**63.** The administrator shall invest the moneys in the pension fund related to the pension plan in accordance with the requirements of this Act and the regulations.

## WINDING UP

Winding up

**64.**—(1) The employer or, in the case of a multi-employer pension plan, the administrator may wind up the pension plan in whole or in part.

(2) The administrator shall give written notice of proposal to wind up the pension plan to, Notice

- (a) the Superintendent;
- (b) each member of the pension plan;
- (c) each former member of the pension plan;
- (d) each union that represents members of the pension plan;
- (e) the advisory committee of the pension plan; and
- (f) any other person entitled to a payment from the pension fund related to the pension plan.

(3) The notice of proposal to wind up shall contain the information prescribed by the regulations. Information

(4) A multi-employer pension plan shall not be wound up by reason only of the withdrawal of a participating employer from the pension plan but the Superintendent by order may require the wind up if the Superintendent is of the opinion that in the circumstances the plan ought to be wound up. Withdrawal of employer from multi-employer pension plan

(5) The effective date of the wind up shall not be earlier than the date member contributions, if any, cease to be deducted, in the case of contributory pension benefits, or, in any other case, on the date notice is given to members. Effective date

(6) The Superintendent by order may change the effective date of the wind up if the Superintendent is of the opinion that there are reasonable grounds for the change. Order by Superintendent

**65.—**(1) The Superintendent by order may require the wind up of a pension plan in whole or in part if, Winding up order by Superintendent

- (a) there is a cessation or suspension of employer contributions to the pension fund;
- (b) there is a cessation or suspension of crediting employment for pension benefits to members of the pension plan;
- (c) the employer is bankrupt within the meaning of the *Bankruptcy Act* (Canada);
- (d) a significant number of members of the pension plan cease to be employed by the employer as a

R.S.C. 1970,  
c. B-3



result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer;

- (e) the liability of the Guarantee Fund is likely to be substantially increased unless the pension plan is wound up in whole or in part;
- (f) the employer or the administrator fails to comply with this Act or the regulations; or
- (g) any other event or circumstance prescribed by the regulations occurs.

Date and  
notice

(2) In an order under subsection (1), the Superintendent shall specify the effective date of the wind up and the person or persons to whom the administrator shall give notice of the order.

Wind up  
report

**66.**—(1) The administrator of a pension plan that is to be wound up in whole or in part shall file with the Superintendent a wind up report that shall set out the assets and liabilities of the pension plan, the payments that the administrator proposes to make out of the pension fund related to the pension plan and such other matters as are prescribed by the regulations.

Payments  
out of  
pension  
fund after  
notice of  
proposal to  
wind up

(2) No payment shall be made out of the pension fund in respect of which notice of proposal to wind up has been given until the Superintendent has approved the wind up report.

Application  
of subs. (2)

(3) Subsection (2) does not apply to prevent continuation of payment of a pension or any other benefit the payment of which commenced before the giving of the notice of proposal to wind up the pension plan or to prevent any other payment approved by the Superintendent.

Approval

(4) An administrator shall not make payment out of the pension fund except in accordance with the wind up report approved by the Superintendent.

Refusal to  
approve

(5) The Superintendent may refuse to approve a wind up report that does not meet the requirements of this Act and the regulations or that does not protect the interests of the members and former members of the pension plan.

Approval  
of partial  
wind up

(6) The Superintendent shall not approve a partial wind up of a pension plan that provides lesser rights to members and

beneficiaries of members affected by the wind up than the rights that they would be entitled to if the whole pension plan were wound up as of the same effective date as the partial wind up.

**67.**—(1) If a pension plan that is to be wound up in whole or in part does not have an administrator, the Superintendent may act as or may appoint an administrator.

Appointment  
of  
administrator  
to wind up

(2) The reasonable administration costs of the Superintendent or of the administrator appointed by the Superintendent may be paid out of the pension fund related to the pension plan.

Costs of  
adminis-  
tration  
on winding  
up

**68.** On the wind up of a pension plan in whole or in part, the administrator shall give to each person entitled to a pension, deferred pension or other benefit or refund in respect of the pension plan a statement setting out the person's entitlement under the pension plan, the options available to the person and such other information as is prescribed by the regulations.

Notice of  
entitlements

**69.** For the purpose of determining the amounts of pension benefits on the winding up of a pension plan, in whole or in part,

Determi-  
nation  
of  
entitlements

- (a) the employment of each member of the pension plan affected by the winding up shall be deemed to have been terminated on the effective date of the wind up;
- (b) each member's pension benefits as of the effective date of the wind up shall be determined as if the member had satisfied all eligibility conditions for a deferred pension; and
- (c) provision shall be made for the rights under section 70.

**70.**—(1) A member in Ontario of a pension plan who, at the effective date of the wind up of the pension plan in whole or in part, is within twenty years of the normal retirement date under the pension plan has the right to receive,

Member  
within  
twenty years  
of normal  
retirement  
date

- (a) a pension in accordance with the terms of the pension plan, if, under the pension plan, the member is eligible for immediate payment of the pension benefit;

- (b) a pension in accordance with the terms of the pension plan, beginning at the earlier of,
  - (i) the normal retirement date under the pension plan, or
  - (ii) the date on which the member would be entitled to an unreduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date; or
- (c) a reduced pension beginning on the date on which the member would be entitled to the reduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date.

Member for  
ten years

(2) Bridging benefits offered under the pension plan shall be included in calculating the pension benefit under subsection (1) of a person who has at least ten years of continuous employment with the employer or, in the case of a multi-employer pension plan, has been a member of the pension plan for at least ten years.

Transfer  
of benefits

(3) A member entitled to a pension benefit under subsection (1) may instead require the administrator to pay the commuted value of the pension benefit out of the pension fund in the same manner and for the same purposes as are provided for by this Act in the case of a member who is entitled to a deferred pension.

Notice of  
termination  
of  
employment  
R.S.O. 1980,  
c. 137

(4) Membership in a pension plan includes the period of notice of termination of employment required under Part XII of the *Employment Standards Act*.

Application  
of subs. (4)

(5) Subsection (4) does not apply for the purpose of calculating the amount of a pension benefit of a member who is required to make contributions to the pension fund unless the member makes the contributions in respect of the period of notice of termination of employment.

Failure to  
exercise  
entitlement

(6) A member who is entitled to a pension or a deferred pension but does not exercise his or her entitlement under subsection (1) within sixty days after receiving notice from the administrator shall be deemed to have elected to receive immediate payment of a pension benefit or, if not entitled to immediate payment of a pension benefit under the pension

plan, to receive payment of the deferred pension beginning at the date provided in clause (1) (b).

**71.**—(1) Where a pension plan is wound up in whole or in part, the employer shall pay into the pension fund, Liability of employer on wind up

- (a) an amount equal to the total of all payments that, under this Act, the regulations and the pension plan, are due or that have accrued even though not due, and that have not been paid into the pension fund; and
- (b) an amount equal to the amount by which the value of the pension benefits guaranteed by the Guarantee Fund plus the value of all other pension benefits or deferred pension benefits in respect of employment in Ontario to which the members are entitled under section 37 (deferred pension benefit for past service), section 38 (deferred pension benefit) and under the pension plan exceeds the value of the assets of the pension fund allocated as prescribed by the regulations for the provision of such pension benefits and deferred pension benefits.

(2) The employer shall pay the moneys due under subsection (1) in the manner and at the times prescribed by the regulations. Payment

**72.** Where a pension plan is wound up, the pension fund continues to be subject to this Act and the regulations until all the assets of the pension fund have been disbursed. Pension fund continues subject to Act and regulations

**73.** Where the moneys in a pension fund are not sufficient to pay all the pension benefits and other benefits on the wind up of the pension plan in whole or in part, the pension benefits and other benefits shall be reduced in the manner prescribed by the regulations. Insufficient pension fund

**74.**—(1) The surplus remaining in a pension fund may be paid to the employer on the wind up of the pension plan if, Surplus pension fund

- (a) the pension plan provides for such payment;
- (b) all liabilities under the pension plan, this Act and the regulations have been paid; and
- (c) the prescribed criteria for payment have been fulfilled.



Distribution  
of surplus to  
beneficiaries

(2) If the pension plan does not provide for payment of surplus to the employer, the surplus may be distributed among the beneficiaries of the pension fund after payment of all the liabilities.

## SALES AND TRANSFERS

Continuation  
of benefits  
under succes-  
sor employer

**75.—**(1) Where an employer who contributes to a pension plan sells, assigns or otherwise disposes of all or part of the employer's business or all or part of the assets of the employer's business, a member of the pension plan who, in conjunction with the sale, assignment or disposition becomes an employee of the person who acquires the business or the assets,

- (a) continues to be entitled to the benefits that he or she accrued under the employer's pension plan in respect of employment in Ontario or a designated province to the effective date of the sale, assignment or disposition;
- (b) is entitled to credit in the pension plan, if any, of the person who acquires the business or the assets for the period of membership in the employer's pension plan, for the purpose of determining eligibility for membership in or a deferred pension under the pension plan of the person who acquires the assets; and
- (c) is entitled to credit in the employer's pension plan for the period of employment with the person who acquires the business or the assets for the purpose of determining eligibility for a deferred pension under the employer's pension plan.

Exception

(2) Clause (1) (a) does not apply if the person who acquires the business or the assets assumes responsibility for the accrued pension benefits of the employer's pension plan.

Employment  
deemed not  
terminated

(3) Where a transaction described in subsection (1) takes place, the employment of the employee shall be deemed, for the purposes of this Act, not to be terminated by reason of the transaction.

Transfer  
on sale

(4) Where a transaction described in subsection (1) occurs and the person acquiring the business or the assets assumes responsibility in whole or in part for the pension benefits provided under the employer's pension plan, no transfer of assets shall be made from the employer's pension fund to the pension fund of the plan provided by the person acquiring the

business or the assets without the prior approval of the Superintendent and except upon such terms and conditions as are prescribed by the regulations.

(5) The Superintendent may refuse to approve a transfer of assets that does not protect the interests of the members and former members of the employer's pension plan or that does not meet the requirements and qualifications prescribed by the regulations.

Approval by  
Superin-  
tendent

(6) Unless assets are transferred to fund the benefits accrued under the employer's pension plan, the employer's pension plan shall not be wound up and shall not be deemed to be wound up until all of the accrued benefits have been paid.

Assets not  
transferred

**76.**—(1) Where employer contributions to the pension fund of a pension plan cease as the result of the adoption of a new pension plan, the original pension plan shall not be wound up.

Adoption  
of new  
pension plan

(2) The benefits under the original pension plan in respect of employment before the establishment of the new pension plan shall be deemed to be benefits under the new pension plan.

Continuation  
of benefits

(3) Subsection (2) applies whether or not the assets and liabilities of the original pension plan are consolidated with those of the new pension plan.

Application  
of subs. (2)

(4) A purported transfer of assets from the pension fund of the original pension plan to the pension fund of the successor pension plan is void if made without the approval of the Superintendent.

Transfer  
of assets

(5) The Superintendent may refuse to approve a transfer of assets that does not protect the interests of the members and former members of the original pension plan or that does not meet the requirements and qualifications prescribed by the regulations.

Approval by  
Superin-  
tendent

## PENSION BENEFITS GUARANTEE FUND

**77.**—(1) The Pension Benefits Guarantee Fund is continued.

Guarantee  
Fund  
continued

(2) The Commission is responsible for the administration of the Guarantee Fund including the investment of the assets of the Guarantee Fund.

Adminis-  
tration

Expenses (3) The Commission may charge to the Guarantee Fund the reasonable expenses incurred by the Commission in the administration of the Guarantee Fund.

Loans to  
Guarantee  
Fund (4) If at any time the amount standing to the credit of the Guarantee Fund is insufficient for the purpose of paying claims, the Lieutenant Governor in Council may authorize the Treasurer of Ontario to make loans out of the Consolidated Revenue Fund to the Guarantee Fund on such terms and conditions as the Lieutenant Governor in Council directs.

Guarantee  
Fund  
declaration **78.**—(1) The Commission may declare, in the circumstances mentioned in subsection (2), that the Guarantee Fund applies to a pension plan.

Conditions  
precedent (2) The Commission may make the declaration if,

- (a) the pension plan is registered under this Act;
- (b) the pension plan provides defined benefits;
- (c) the pension plan is wound up in whole or in part; and
- (d) the Commission is of the opinion, upon reasonable and probable grounds, that the funding requirements of this Act and the regulations cannot be satisfied.

Guaranteed  
benefits **79.**—(1) Where the Guarantee Fund is declared by the Commission to apply to a pension fund, the following are guaranteed by the Guarantee Fund, subject to the limitations and qualifications as are set out in this Act or are prescribed:

1. Any pension in respect of service in Ontario.
2. Any deferred pension in respect of employment in Ontario to which a former member is entitled, if the former member's employment or membership was terminated before the 1st day of January, 1987 and the former member was at least forty-five years of age and had at least ten years of continuous employment with the employer at the date of termination of employment.
3. A percentage of any defined pension benefits in respect of employment in Ontario to which a member or former member is entitled under section 37 or 38, if the member's or former member's employ-

ment or membership was terminated after the 31st day of December, 1986, calculated as follows:

- i. 20 per cent, if the member or former member is within twenty years of the normal retirement date under the pension plan at the date of termination of employment or membership,
  - ii. 40 per cent, if the member or former member is within nineteen years of the normal retirement date under the pension plan at the date of termination of employment or membership,
  - iii. 60 per cent, if the member or former member is within eighteen years of the normal retirement date under the pension plan at the date of termination of employment or membership,
  - iv. 80 per cent, if the member or former member is within seventeen years of the normal retirement date under the pension plan at the date of termination of employment or membership,
  - v. 100 per cent, if the member or former member is within sixteen years of the normal retirement date under the pension plan at the date of termination of employment or membership.
4. All additional voluntary contributions, and the interest thereon, made by members or former members while employed in Ontario.
  5. The minimum value of all contributions made to the pension plan by a member or former member plus interest.

(2) For the purpose of this section, where a member or former member has at least ten years of continuous employment with the employer, pension benefits shall include bridging benefits.

Bridging  
benefits

**80.** The following are not guaranteed by the Guarantee Fund:

Payments not  
guaranteed



1. The payment of a pension or pension benefit under a pension plan that has been established or maintained for less than three years at the date of wind up.
2. Any increase to a pension or pension benefit or the value of a pension or pension benefit that became effective within three years before the date of wind up.
3. The amount of any pension or pension benefit, including any bridging supplement, in excess of \$1,000 per month or such greater amount as is prescribed by the regulations.

Lien for payment out of Guarantee Fund

**81.**—(1) Where money is paid out of the Guarantee Fund as a result of the wind up, in whole or in part, of a pension plan, the Commission has a lien and charge on the assets of the employer or employers who provided the pension plan.

Amount of lien

(2) The lien and charge is in an amount equal to the amount of the payment out of the Guarantee Fund plus interest thereon calculated at the rate and in the manner prescribed by the regulations.

Real property

(3) The lien and charge does not affect assets that are real property until a notice of the lien and charge that includes a description of the real property is registered in the proper land registry office, and the Commission may so register notice of the lien and charge.

## ORDERS BY COMMISSION

Orders by Commission

**82.**—(1) The Commission, in the circumstances mentioned in subsection (2), by order may require an administrator to take the action specified in subsection (3).

Grounds for order

(2) The Commission may make an order under this section where the Commission is of the opinion,

- (a) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan are inappropriate for a pension plan;
- (b) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan do not accord with generally accepted actuarial principles; or

- (c) that a report submitted in respect of a pension plan does not meet the requirements and qualifications of this Act, the regulations or the pension plan.

(3) An order under this section may include, but is not limited to, requiring the preparation of a new report and specifying the assumptions or methods or both that shall be used in the preparation of the new report.

Contents  
of order

## HEARING AND APPEAL

**83.**—(1) Where the Superintendent proposes to refuse to register or to revoke a registration, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant or administrator of the plan.

Notice of  
proposal  
to refuse  
or revoke

(2) Where the Superintendent proposes to refuse to consent to a transfer out of a pension fund, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator of the plan and on the member who applied for the transfer.

Notice of  
proposal to  
refuse  
transfer

(3) Where the Superintendent proposes to make an order related to the administration of a pension plan or pension fund, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and on any other person to whom the Superintendent proposes to direct the order.

Notice of  
proposal  
related to  
adminis-  
tration

(4) Subsection (3) does not apply to require the Superintendent to give notice of a proposal to make an order regulating or prohibiting the payment of money to or out of a specific pension fund.

Application  
of subs. (3)

(5) Where the Superintendent proposes to make or to refuse to make an order requiring an administrator to accept an employee as a member of a class of employees for whom a pension plan is established or maintained, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and on the employee.

Notice of  
proposal re  
membership

(6) Where the Superintendent proposes to attach terms and conditions to an approval under this Act or the regulations, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant for the approval.

Notice of  
proposal to  
attach terms  
and  
conditions  
to approval

(7) Where the Superintendent proposes to make an order declaring a pension plan wound up, the Superintendent shall

Notice of  
proposed  
wind up  
order

serve notice of the proposal, together with written reasons therefor, on the administrator and the employer.

Notice  
requiring  
hearing

(8) A notice under subsection (1), (2), (3), (5), (6) or (7) shall state that the person on whom the notice is served is entitled to a hearing by the Commission if the person delivers to the Commission, within thirty days after service of the notice under that subsection, notice in writing requiring a hearing, and the person may so require such a hearing.

Power of  
Superin-  
tendent

(9) Where the person on whom the notice is served does not require a hearing in accordance with subsection (8), the Superintendent may carry out the proposal stated in the notice.

Hearing

(10) Where the person requires a hearing by the Commission in accordance with subsection (8), the Commission shall appoint a time for and hold the hearing.

Power of  
Commission

(11) At or after the hearing, the Commission by order may direct the Superintendent to carry out or to refrain from carrying out the proposal and to take such action as the Commission considers the Superintendent ought to take in accordance with this Act and the regulations, and for such purposes, the Commission may substitute its opinion for that of the Superintendent.

Conditions

(12) The Commission may attach such terms and conditions to its order or to the registration as the Commission considers proper to give effect to the purposes of this Act.

Parties

(13) The Superintendent, the person who requires a hearing and such other persons as the Commission specifies are parties to the proceeding before the Commission under this section.

Opportunity  
to show  
compliance

(14) A party to a hearing shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the registration of the pension plan.

Examination  
of  
documentary  
evidence

(15) A party to a hearing under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Release of  
documentary  
evidence

(16) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to the person within a reasonable time after the matter in issue has been finally determined.

**84.**—(1) The Commission shall give notice to the employer and the administrator of a declaration by the Commission that the Guarantee Fund applies to a pension plan, together with written reasons for the declaration.

Notice of  
declaration  
by  
Commission

(2) The Commission shall give notice to the employer of a refusal to approve payment of surplus to the employer out of a pension fund, together with written reasons for the refusal.

Notice of  
refusal of  
payment of  
surplus

(3) A notice under subsection (1) or (2) shall state that the employer is entitled to have the Commission reconsider its decision if the employer delivers to the Commission, within thirty days after service of the notice under that subsection, notice in writing requiring the reconsideration and the employer may so require the reconsideration.

Notice  
requiring re-  
consideration

(4) Where the Commission makes an order directed to an administrator in respect of a report by the administrator under this Act, the Commission shall give notice to the administrator that the administrator is entitled to have the Commission reconsider its order if the administrator delivers to the Commission, within thirty days after service of the notice by the Commission, notice in writing requiring the reconsideration and the administrator may so require the reconsideration.

Notice re  
order to  
administrator

(5) The employer or administrator shall set out the grounds on which the employer or administrator relies for the reconsideration.

Grounds for  
reconsid-  
eration

(6) Upon receipt of a notice requiring reconsideration in accordance with subsection (3) or (4), the Commission shall reconsider its decision and shall confirm, vary or rescind its declaration, refusal or order and shall give notice of its decision, together with written reasons therefor, to the employer or administrator.

Reconsid-  
eration

(7) The *Statutory Powers Procedure Act* does not apply in respect of a declaration, refusal, order or reconsideration or any of them by the Commission.

Application  
of R.S.O.  
1980, c. 484

**85.**—(1) A party to a proceeding before the Commission under section 83 or 84 may appeal to the Divisional Court from the decision or order of the Commission.

Appeal  
to court

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the prescribed fee, the Commission shall furnish the party with a certified copy of the record of the proceeding, including the documents received in evidence and the decision or order appealed from.

Certified  
copy of  
record



Quorum  
and votes

**86.**—(1) Three members of the Commission constitute a quorum for the purposes of a proceeding before the Commission under section 83 or 84, and decisions in such proceedings require the vote of a majority of the members of the Commission present at the hearing in the proceeding.

Panels

(2) The Commission may sit in two or more panels simultaneously for the purposes of such proceedings.

Assignment

(3) The chairman shall assign the members of the Commission to its panels and may change an assignment at any time.

Expiry of  
member's  
term of  
office

(4) Where a proceeding is commenced before the Commission and the term of office on the Commission of a person sitting for the hearing expires or is terminated, other than for cause, before the proceeding has been disposed of but after evidence has been heard, the person shall be deemed to remain a member of the Commission for the purpose of completing the proceeding in the same manner as if his or her term of office had not expired or been terminated.

## PENSION COMMISSION

Commission  
continued

**87.**—(1) The Pension Commission of Ontario is continued.

Composition

(2) The Commission shall be composed of not fewer than five and not more than nine members appointed by the Lieutenant Governor in Council.

Head and  
deputy head

(3) The Lieutenant Governor in Council shall appoint the head and the deputy head of the Commission from among the members of the Commission.

Term of  
office

(4) The members of the Commission shall be appointed for terms of not more than three years and may be reappointed for further terms of not more than three years.

Authority of  
deputy head

(5) If the head of the Commission is absent or if there is a vacancy in the office of head of the Commission, the deputy head shall act as and have all the powers of the head of the Commission.

Acting head

(6) If both the head of the Commission and the deputy head are absent or if there are vacancies in the offices of head of the Commission and deputy head, the member of the Commission designated by the members of the Commission shall act as and have the powers of the head of the Commission.

(7) The Lieutenant Governor in Council may fill any vacancy in the membership of the Commission or in the offices of head or deputy head of the Commission.

Vacancies

(8) A majority of the members of the Commission, including the head or deputy head of the Commission, constitutes a quorum.

Quorum

(9) The Commission may appoint such employees to its staff as the Commission considers necessary.

Staff

(10) The Commission may, subject to the approval of the Lieutenant Governor in Council, establish job classifications, salary ranges and the terms and conditions of employment of the members of the staff of the Commission.

Terms of  
employment

(11) The *Public Service Superannuation Act* applies to the permanent and probationary members of the staff of the Commission and to the members of the Commission designated by the Lieutenant Governor in Council.

Pension  
R.S.O. 1980,  
c. 419

(12) Every person entrusted by the Commission with the custody or control of money in the course of employment shall give security in the manner and form provided by the *Public Officers Act*.

Security

R.S.O. 1980,  
c. 415

**88.** The Lieutenant Governor in Council may establish or designate an agency for the purposes, among others, of receiving, holding and disbursing pension benefits under this Act.

Pension  
agency

**89.** The Commission may, subject to the approval of the Lieutenant Governor in Council,

Reciprocal  
agreements

- (a) enter into agreements with the authorized representatives of another province or the Government of Canada to provide for the reciprocal application and enforcement of pension benefits legislation, the reciprocal registration, audit and inspection of pension plans and for the establishment of a Canadian association of pension supervisory authorities;
- (b) authorize a Canadian association of pension supervisory authorities to carry out such duties on behalf of the Commission as the Commission may require; and
- (c) delegate to or accept delegation from a pension supervisory authority or the government of a designated province such functions and powers under this Act as the Commission may determine.

Superintendent of Pensions

**90.**—(1) The position of Superintendent of Pensions is continued.

Appointment

(2) The Commission shall appoint the Superintendent.

Responsibility

(3) The Superintendent is the chief administrative officer of the Commission.

Order by Superintendent

**91.**—(1) The Superintendent, in the circumstances mentioned in subsection (2), by a written order may require an administrator or any other person to take or to refrain from taking any action in respect of a pension plan or a pension fund.

Condition precedent to order

(2) The Superintendent may make an order under this section if the Superintendent is of the opinion, upon reasonable and probable grounds, that the pension plan or pension fund is not being administered in accordance with this Act, the regulations or the pension plan.

Time

(3) In an order under this section, the Superintendent may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

Reasons for order

(4) An order under this section is not effective unless the reasons for the order are set out in the order.

Liability of members and employees of Commission

**92.** No member of the Commission or of the staff of the Commission is personally liable for anything done in good faith in the execution or intended execution of a duty or authority under this Act or the regulations or for alleged neglect or default in the execution in good faith of such a duty or authority.

Inspection of pension plan by members

**93.** A member of a registered pension plan or the member's agent authorized in writing may inspect, take copies of and make extracts from the documents that create and support the pension plan on file at the offices of the Commission during business hours of the Commission.

Audit

**94.** The Provincial Auditor shall examine annually the accounts and financial transactions of the Commission.

Annual report

**95.**—(1) The Commission shall report annually to the Minister on the business of the Commission.

Idem

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report

before the Assembly if it is in session or, if not, at the next ensuing session.

**96.** It is the duty of the Commission to administer this Act and the regulations and to advise the Minister respecting the business of the Commission and the administration of this Act and the regulations.

Adminis-  
tration  
of Act

**97.** It is the duty of the Commission,

Additional  
duties of  
Commission

(a) to promote the establishment, extension and improvement of pension plans throughout Ontario; and

(b) to make recommendations to the Minister in respect of pension plans in Ontario.

**98.—**(1) It is a function of the Commission to conduct surveys and research programs and to compile statistical information related to pensions and pension plans.

Research

(2) The Commission may request an employer or an administrator or a member of a pension plan to provide information necessary to compile the statistical information and such persons shall comply with the request within a reasonable period of time.

Provision of  
information

(3) The Commission shall use the information only for the purpose of compiling the statistical information and shall not otherwise reveal the information without the consent of the persons who supply the information.

Confiden-  
tiality

**99.—**(1) The Superintendent may require an employer, an administrator or any other person to supply to the Commission or the Superintendent such information in such form as is acceptable to the Superintendent and within such time limits as specified for the purpose of ascertaining whether or not this Act and the regulations are being complied with.

Information

(2) A person to whom a request is made under subsection (1) shall comply with the request within the time specified by the Superintendent or other person designated by the Superintendent.

Idem

**100.** Every pension plan that was registered and that continued to be qualified for registration under the *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, immediately before the coming into force of this Act, shall be deemed to be registered upon the coming into force of this Act.

Transitional



Conforming  
amendment

**101.** Every employer who maintains a pension plan on the date this Act comes into force shall amend the pension plan to conform with this Act and the regulations within two years after the date this Act comes into force.

Interpreta-  
tion, persons

**102.**—(1) The persons referred to in subsections (3) to (5) and (8) to (10) are the following:

1. The Superintendent.
2. Any person designated by the Superintendent or the Commission.

Interpreta-  
tion,  
purposes

(2) The purposes mentioned in subsections (3) to (5) and (10) are the following:

1. The administration of this Act and the regulations.
2. The administration of the Guarantee Fund.
3. The enforcement of any section of this Act or the regulations.
4. The exercise of a power or the carrying out of a duty under this Act or the regulations.
5. The carrying out of an order made under this Act.

Entry

(3) A person mentioned in subsection (1) may enter and have access to, through and over any premises for a purpose mentioned in subsection (2).

Examinations

(4) A person mentioned in subsection (1) may make examinations, investigations and inquiries for a purpose mentioned in subsection (2).

Samples or  
extracts

(5) A person mentioned in subsection (1) may make, take and remove or require the making, taking and removal of copies or extracts related to an examination, investigation or inquiry for a purpose mentioned in subsection (2).

Reasonable  
times

(6) The authority under subsections (3) to (5) shall be exercised only at reasonable times.

Private  
residence

(7) Subsection (3) is not authority to enter a private residence without the consent of the occupier.

Removal of  
books, etc.,  
for copying

(8) A person mentioned in subsection (1) who is making an examination, investigation or inquiry may, upon giving a receipt therefor, remove any books, papers, documents or

things relating to the subject-matter of the examination, investigation or inquiry for the purpose of making copies of the books, papers, documents or things, but the copying shall be carried out with reasonable dispatch and the books, papers, documents or things shall be returned forthwith after the copying is completed.

(9) A copy of any written or recorded material related to an examination, investigation or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original. Copies

(10) If an occupier of premises, Application  
for warrant

- (a) denies entry or access to, through or over the premises to a person mentioned in subsection (1);
- (b) instructs a person mentioned in subsection (1) to leave the premises;
- (c) obstructs a person mentioned in subsection (1) who is acting for a purpose mentioned in subsection (2);
- (d) refuses to comply with a request for the production of any thing the production of which is requested for the purpose of an examination, investigation or inquiry or for a purpose mentioned in subsection (2),

a person mentioned in subsection (1) may apply to a justice of the peace for a warrant under section 104.

**103.**—(1) No person shall hinder or obstruct a person mentioned in subsection 102 (1) who is lawfully carrying out a duty under this Act. Obstruction

(2) A refusal of consent to enter a private residence is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1). Private  
residence

**104.**—(1) Where a justice of the peace is satisfied on evidence upon oath, Warrant by  
justice of  
the peace

- (a) that there is reasonable and probable ground for believing that it is necessary,
  - (i) to enter and have access to, through and over any premises,

(ii) to make examinations, investigations or inquiries, and

(iii) to make, take and remove photographs, samples, copies or extracts related to an examination, investigation or inquiry,

or to do any of such things, for a purpose mentioned in subsection 102 (2); and

(b) that a person mentioned in subsection 102 (1),

(i) has been denied entry to the premises,

(ii) has been instructed to leave the premises,

(iii) has been obstructed, or

(iv) has been refused production of any thing related to an examination, investigation or inquiry,

by the occupier of the premises,

the justice of the peace may issue a warrant authorizing a person mentioned in subsection 102 (1) to act as mentioned in clause (a) in respect of the premises specified in the warrant, by force if necessary, together with such police officer or officers as they call upon to assist them.

Execution  
of warrant

(2) A warrant issued under this section shall be executed between 6 a.m. and 9 p.m. standard time unless the justice of the peace otherwise authorizes in the order.

Expiry of  
warrant

(3) A warrant issued under this section shall state the date on which it expires, which shall be a date not later than fifteen days after the warrant is issued.

*Ex parte*  
application

(4) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises.

Offence

**105.**—(1) Every person who contravenes this Act or the regulations is guilty of an offence.

*Idem*

(2) Every person who contravenes an order made under this Act is guilty of an offence.

**106.**—(1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$10,000. Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed is \$25,000 and not as provided in subsection (1). Corporation

(3) Where a corporation is convicted of an offence under this Act, Directors,  
officers,  
employees  
and agents

- (a) each director of the corporation; and
- (b) each officer, employee or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is guilty of an offence and is liable on conviction to a fine of not more than \$10,000 unless the director, officer, employee or agent satisfies the court that he or she took all reasonable care to prevent the commission of the offence.

(4) Where a person is convicted of an offence related to the failure to submit or make payment to a pension fund or to an insurance company, the court that convicts the person may, in addition to any fine imposed, assess the amount not submitted or not paid and order the person to pay the amount to the pension fund or to the insurance company. Order for  
payment

(5) An order for payment under subsection (4), exclusive of the reasons therefor, may be filed by the Superintendent in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

(6) No proceeding under this Act shall be commenced more than two years after the date when the subject-matter of the proceeding came to the knowledge of the Superintendent. Time limit

(7) A statement by the Superintendent as to the date when the subject-matter of the proceeding first came to the knowledge of the Superintendent is admissible in evidence in or in respect of the proceeding as *prima facie* of the facts stated therein without proof of the appointment or signature of the Superintendent. Superin-  
tendent's  
statement  
as evidence

**107.** Where a provision of this Act or the regulations is contravened, notwithstanding any other remedy or penalty imposed, the Commission may apply to the Supreme Court for an order prohibiting the continuation or repetition of the Proceedings  
to prohibit  
continuation  
or repetition  
of  
contravention



contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the court may make the order and the order may be enforced in the same manner as any other order of the Supreme Court.

## Service

**108.**—(1) Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by registered mail addressed to the person to whom it is to be given, served or delivered at his or her last known address.

Deemed  
service

(2) A notice, order or other document sent by registered mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he or she did not receive the notice, order or other document, or did not receive it until a later date, through absence, accident, illness or other cause beyond his or her control.

## Conflict

1986, c...

**109.** In the event of a conflict between this Act and any other Act, this Act prevails unless the other Act states that it is to prevail over the *Pension Benefits Act, 1986*.

## Regulations

**110.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing the times for filing or the last dates for filing of documents that are required to be filed under this Act;
- (c) specifying terms of or information related to pension plans that shall be set out in the documents creating and supporting the pension plans;
- (d) exempting any pension plan or class of pension plan from the application of this Act or the regulations or from any section of this Act or the regulations;
- (e) prescribing criteria that shall be taken into consideration in calculating the value of pension benefits for the purposes of an agreement or an order under the *Family Law Act, 1986* or on the granting of a divorce or the declaring that a marriage is a nullity;

1986, c. 4

- (f) prescribing criteria that shall be taken into account in determining the value or the commuted value of a pension, pension benefit or any ancillary benefit;
- (g) prescribing reports that shall be submitted to the Commission, the contents and the method of preparation of the reports and the persons or classes of persons by whom the reports must be prepared;
- (h) prescribing pension benefits that are not guaranteed by the Guarantee Fund;
- (i) prescribing assessments for the purposes of the Guarantee Fund and prescribing the classes of employers that shall pay such assessments;
- (j) prescribing fees that shall be paid for copies of documents provided by the Commission;
- (k) prescribing the methods of calculating the values of assets and liabilities of pension funds;
- (l) prescribing criteria that must be complied with before any surplus may be paid out of a pension fund;
- (m) prescribing the rate or the method of determining the rate at which an employer shall pay moneys due from the employer under this Act on the winding up of a pension plan, and prescribing the manner of payment and to whom the payments shall be made;
- (n) regulating or prohibiting the investment of moneys from pension funds in prescribed investments or classes of investments and prescribing such investments or classes of investments;
- (o) prescribing forms and providing for their use;
- (p) prescribing the time within which any document specified in the regulations that this Act requires to be given, filed or served shall be given, filed or served.

**111.** The *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980 and the *Pension Benefits Amendment Act*, 1983, being chapter 2, are repealed. Repeals

Commence-  
ment

**112.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**113.** The short title of this Act is the *Pension Benefits Act, 1986*.





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